J. 7201 of 94

G. R. S. IX-5]

1892-93

Previous references.

File No. 15 of 92

191 .

Serial Nos. 1-17

(police)

Later references.

J9

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-17.

Major ~~Part~~ B for april 1893

SUBJECT.

~~Fatal~~ Railway accident ~~which~~ the ~~took place~~ near Kengeri Station

Indexed
BB

W D 88—GPB—50,000—24-7-16

✓

(7)

CHIEF SECY.'S DEPT.

Submitted to the Dewan.

For Information

Appl Dept No 4861
399·86
15 Dec 92

The above relates to a Railway accident that occurred near Kengeri by which one man (or two?) was killed -

The Police report that there was culpable negligence on the part of the Engine Driver of the Goods Train which colliding with the Lobby caused the accident -

A letter has thereupon been written to the Resident reporting the facts & asking whether the Authorities desire to prosecute the Engine Driver

Mr Pendergast called
to see me — At 12 o'clock
The Chief had the
Guardians see
no reason to hold the
Inspr Dimmock
Prosecution —

Meanwhile
the Corporation Railway
Police have taken
action so soon
as they are competent
to do so —

The latest reports
from the Lyd Police
& the Pendergast cases
are herewith sent —

The various papers
given into the Coroners
& Chamberlain's Committee
& just been given
to me now —

Evidently there
is no further enquiry
to do — The Police
Prosecution will take
the case made

Mr. 9/2/02

Mr. 9/2/02
may be
asked to
authorise the
remand of the
third prisoner
early next week

Mr
19/2/02

Memo

Repce. Letter from the Insp Genl Police, No. 3067/3no & 19th Apl 1893.

This relates to a Railway accident which happened on the 11th of Oct 1892 near Kengari Station in which a time keeper named Koomaraswamy travelling along the line in a trolly was run over by the 743 goods train and killed. The Asst Superintendant of Railways Submitting his report[x] on the case Stated that the driver having Caused the Collision (1) by Coming on before time[x] (2) not Whistling for brakes (3) not Stopping the train by applying Steam brakes &c rendered himself liable to be prosecuted under Sec 26 of Railway Act & Sec 304 of Indian Penal Code.

dated 5th nov 1892

The Engine driver Kelly was thereupon placed before the City Magistrate for trial but upon applying to the Chief Court that his rights as a British subject was ordered to be tried by Mr Ricketts Justice of the Peace

[x] The Station masters statement to this effect is contradicted by that of the driver & Guard who assert that they arrived at Kengeri at about 15.48' and not at 15.33' as stated by the Station master; they having been delayed about 15' at the scene of the accident. The Asst Supt of Police credits the Station-masters statement as being corroborated by the fact that he "approached" the line-clear message for another train which started from Bidadi at 15.39'.

Mr Ricketts has also been accused on the following grounds:- (1) The correctness of the Kingeri Station Master's statement that the 43 up goods train arrived at Kingeri at 15h 33' and hence at the scene of accident about 15' too soon is questionable. Because (1) The time of departure from Kingeri as given by the Station Master is 15h 52'. and a delay of 19' at the Kingeri station is not satisfactorily explainable. (2) Though the Kingeri Station Master affirms that he gave line-clear message to Bidadi at 15h 36' & the Bidadi Station-Master corroborates this by saying that he thereupon started the 14 goods train at 15h 39'; these statements are contradicted by the entries of the driver and guard of the 14 goods train to the effect that (owing to delay in receiving line clear message from Kingeri) they left Bidadi only at 15h 45'. On a careful Examination of these entries they seem to have been properly made & not altered in any way.

(3) The Statement of Mr Molly, the District does Supt to the effect that "it was extremely improbable for 143 up train to be before time under any circumstances", the facts that the train was overloaded had to ascend a good height on a heavy winding line and was drawn by an Engine rendering the arrival before time quite improbable, Mr Porter's Statement that he knew of no train arriving at Bangalore before time and the extreme rarity, according to Mr Miller, of any train arriving so much as 15' before time — all these facts lead to the Conclusion that the driver was not running in over time.

II. The driver affirms that he whistled though the Station Master & pointsman deny having heard any such whistle. The probabilities are that there was a whistle in the usual routine and the chances are increased if, as alleged by the Prosecution, the train was coming before time.

Memo

Q. The trolly according to the Station Master left Kingeri at 15h5' or 15h6'. It should, according to rules, be taken off the trails 15' before the arrival of the train; it would take 2 or 3' to take it off. Hence the Station Master who ought to have known that there were only 10' at the disposal of Coomarasami should not have allowed such mismanagement. At the same time the rule that the trolly should be preceded at a distance of ½ a mile by a man bearing flag was not observed.

IV At the same time, there no negligence or rashness on the part of the driver. According to Mr Molly, at the time of the accident owing to the resistance of the Curve the overloaded train would not have been going on at more than 6 miles an hour while the trolly going down the gradient would have proceeded at about 13 miles an hour. The rapidity of the trolly is apparent from the fact that both the men jumped off it were quite stunned Though the Engine could have been easily stopped the trolly could not.

K Srinivasagam
26/4/93

Read the Queen's Regs. The keepers may now be needed
26/5
30/6

(General Serial No. 30) 13 OCT. 92 1892

INSPECTOR GENERAL OF RAILWAYS PROVINCE

Section Pol.
File No 15-92
Serial No

From The Offg: Asst to Superintendent of Railways Police Bangalore

To The Chief Secretary to the Govt of Mysore thro' the Inspr Genl of Police

Dated 12th October 1892.
Despatched
Received

Enclosures No.

General No. 78
No.

Sir,

I have the honor to report that on my return from Mysore yesterday, I was put in hand of a message from the Station Master Kengeri which is as follows:-

"Guard and Driver"
"of 143 Up report Engine"
"knocked over Line-keeper's"
"trolly at mile 218/17, picked"
"up the Line-keeper senseless,"
"no damage to Permanent"
"way or Rolling Stock. Trolly"
"smashed."

Immediately after

OFFICE OF THE DEWAN OF MYSORE
3761
13 OCT. 92
91604

No 968
104

Forwarded to the Chief Secretary to the Govt of Mysore

by order
B. Rathnamma Shetty
for Inspr Genl of Police
13/10/92

Subd. Note 13/10/92

filed
13/10

after the receipt of the above, another message, from the Assistant Engineer, Bangalore Section, to effect that the Line-Keeper died before reaching Bangalore, was delivered to me.

I left this morning by the first available train for the scene of the accident and will submit my report duly enquiring into the cause of the same.

I have the honor to be
Sir,
Your most Obedient Servant.

V. Thirumalacharlu

Offg: Asst Superintendent
of Railways

A.S.P.

(General Serial No. 30.) C.F. 4964

1892 I. V. 9

Y 224.

From The Inspector General of Police

Section Pol
File No 15 G 92
Serial No 2

Dated 10th November 1892

Despatched

Received

Enclosures No.

General No. 1302

No. 43

Subg Continuation of his No 968 dy 13th October 1892, letter from the Asstt Supt of Ry Police Mysore State Railway Subg detailed report of the fatal accident, that took place on 11th October 1892, near Kangeri Station.

Submitted for the perusal of His Highness the Maharaja.

Send Copy of this to Genl Regt and ask that a Copy of the Proceedings may be forwarded in the case, when it is received.

Proceed with the investigation of the accident. Such [not framed] evidence as will be necessary in this case should be recorded in this office.

Proceed when the has to be instituted in the ordinary Course of Law. The Officer in charge of the present Case can be [illegible] where he is found or where he can be found.

Submitted for the orders of His Highness the Maharaja.

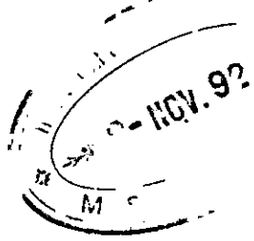
Let the Proceedings go at once & the Enquiry be made when I go to Bangalore on Thursday

25/11/92

Draft Letter 26/11

Drafted

No 97



Camp Mysore
dt 5th November 1892.
Rpd 7 Rpd No 55.

From, The Asst to Supt to of Police
Mysore State Ry
Bangalore

To, The Inspector General of Police
in Mysore.

Sir,

In continuation of my letter No 89 dated 24.10.92, I have the honor to submit detailed report of the fatal accident that took place on 11.10.92 near Mengeri Station, for transmission to the Chief Secretary to the Government of Mysore.-

2. On the 11th October 1892, the train No 1163 up goods left Bidadi station at 2.27 P.M. and the Station Master endorsed on the "Line clear" ticket that trolly was on the Line and handed it over to the Chief Guard who passed it on to the Driver.

3. This train came in collision with the Linekeeper's trolly at mile 218/17 which resulted in the death of Linekeeper Coomarasamy

4. The Linekeeper with the Con

Contractor arrived at Kengeri in a trolley at 2 P.m. and left it at 3.5 P.m. When the trolly passed half a mile, the gang coolies and Contractor saw the Engine and jumped off the trolly and fell in the side drain; while the Timekeeper, according to driver's statement, got down the trolly and was attempting to stop it when the Engine came in contact with the trolly and dashed it and the Time-keeper against the cutting.

5. The driver says that he attempted to stop the train when he saw the trolly 40 or 50 yards away from it, but he did not succeed and that he was going up hill at the rate of 8 miles an hour.

6. The Station Staff and the Police Constable at Kengeri, the Contractor and the gang coolies, all state that they did not hear any whistle before the accident and the Chief and Under-guards also depose that the driver did not whistle for brakes.

7. The Chief Guard and the driver state that the train arrived at the scene of accident at 3.27 P.m. and moved on to Kengeri at 3.50 P.m. according to driver's statement and at 3.41 according to the Chief Guard's statement.

8. But the Station Master says

says that the train arrived at Dengeri at 3-33' P.M. which is the right time for this train. His statement appears to be correct because he gave "Line clear" for another train which left Bidadi at 3.39' P.M. If this train had not arrived at Dengeri at 3.33' P.M, the Station Master would not have given "Line clear" for the other train. As the Chief Guard says that 17 minutes were spent at the scene of accident, it must be concluded that the train arrived 17 minutes earlier than the proper time - It takes only 4 minutes for a trolly to run from the Station to that part of the Line where the accident occurred. Therefore the Line-Keeper would not have left the Station if he expected the train to be so near the Station. When he left Dengeri he had 28 minutes before him and he naturally calculated that he would meet the train 3 or 4 miles away from the Station -

8. Thus it will be seen that the Driver acted in violation of the Rules by coming before time, by not whistling for breakes when he saw the trolly, and by not stopping the train by applying steam brake and reversing the lever, and rendered himself liable for -

for prosecution under Section 26 of the Railway Act and Section 304 I.P.C

I have the honor to be
Sir,
Your most obedient servt

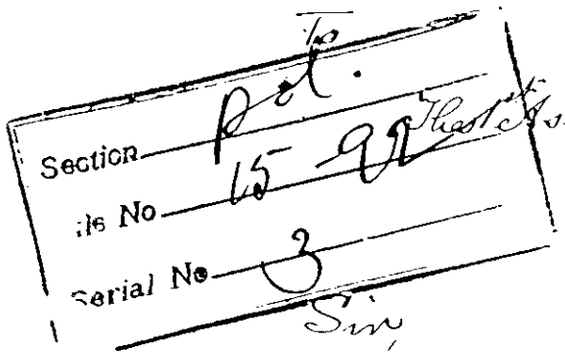
Asst. Supt. of Ry. Police

No. 1302
143.
Submitted to the Chief Secretary, in continuation of this office No. 968/104 of the 13th Oct 1892.

Inspector General
Camp Bangalore 7th
10th November 1923
11th

(3)

xmp No. 199
Ex: 1 1 21



The Asst to the Res Dt
in Mysore

Sir,

I am directed to for-
-ward herewith copy of letter
No. 99 dated 5th instant from
the Assistant Superintendent
of Railway Police to the ad-
-dress of the Inspector Genl
of Police in Mysore, submit-
-ting a detailed report upon
the fatal Railway accident
which took place near the
Kangeri Station on the 11th
ultimo, and to request the
favor of your kindly fur-
-nishing the Durbar with
a Copy of the Proceedings
of any Departmental En-
-quiry, for any further
information it may throw
upon the accident. Such
information will be useful

in

in the Criminal prose-
-cution which has to be
instituted in the ordi-
-nary course of law.
2. The offender, in the
present case, can be
tried either in the place
where he is found, or in
that where he committed
the offence, and there-
-fore, I am to request
very early information
as to whether any steps
have been taken to try
him any where in Bri-
-tish India, as, if no
such steps have been
taken, the Durbar
must forthwith order
his prosecution in Mysore.

I have &c

Comr. 26 Nov

Chalmers.

MKK
26/11/92

(4)

camp no: 200 dy 26.11.92
Cavl / 26

GOVERNMENT OF MYSORE

Section Pol.
File No 15-92
Serial No 4

To
The Hd Qr Asst
Camp Hungund

Ref No 1302/43 dy 10th instant, forwarding the Chenpa Chetty's report on the Railway accident which took place near Hungund on the 11th October last

With reference to the above has the honour to forward herewith letter No 199 (Camp) this day addressed to the Police Officer, Hungund requesting that the H.C. will report the full names and addresses of the Supervisor Driver and any other person that may be blameworthy in the case.

Camp
26 Nov

Thornton
Ag

It appears that the Ry
Co have taken
no steps in
connection with
the proceedings
taken from the
Kolar as soon
as possible

16/12

Dated
Sir
The papers are said to be
not available in the
D. H. O here
12 1892

Barron Esqre
in Nuddapanna
Why if he has no
knowledge of the
case Mr Edwards reply -
If the Dy Comr is
here, his remarks should
be obtd

19/12

Manager
Compliance
19/12

Mr Barron Esqre
Nuddapanna

19/12

1892. 5921-
5-DEC 9
F. 574-92

From
The Inspector General of Police
in Mysore.

To
The Chief Secretary to the
Government of Mysore.

Section 101
No. 15-92
Serial No. 5
Dated 6th

Despatched - 7 December 1892
Received

General No. 1568
1568

Enclosure. one

SUBJECT.

Furnishing particulars
regarding the names of the
Engine driver & Firemen
concerned in the late R.
Railway accident, and stat
that they were placed before t
City Magistrate on trial.

Judl
Dirn
6/12

Mysore Govt. C.Press, Bangalore.—27-8-92—500.

Subd
8/12.92

By whom
& under what cir
Ag Mr Barron Esqre
Asst Mr Chikballapur

No. 1568
168

OFFICE OF THE INSPECTOR GENERAL OF POLICE IN MYSORE.

Dated Bangalore 6th December 1892.

Enclosure. one

From

The Inspector General of Police
in Mysore,

To

The Chief Secretary to the
Government of Mysore.

SIR,

With reference to your No. 200 X of the 26th ultimo, I have the honor to forward herewith copy of the Railway Police Assistant Superintendent's letter No. 112 dated 3rd Instant giving particulars regarding the names of the Engine Driver and Firemen concerned in the accident and reporting that they were placed on their trial before the City Magistrate, who is said to have forwarded the records to the District Magistrate, as the Engine Driver claimed to be dealt with as a European British-born subject.

I have the honor to be
Sir,
Your most obedient servant.

M Jagadeva Rao
Inspector General of Pol.

(General Serial No. 30.)

1892.

From The Asstt. Supt. of Railway Police, Bangalore.

To The Inspector General of Police in Mysore.

Dated 3rd Bangalore.

Despatched } December 1892.

Received

Enclosures No.

General No. 112
No

Sir,

In reply to your No. 1500/29 dated the 1st Instant, forwarding Copy of letter No. 199 dated the 26th Ultimo, from the Chief Secretary to the 1st Assistant to the Resident, I have the honor to report that the Engine Driver's full name is Patrick Kelly son of Mr. Joseph Kelly, and the names of the Firemen who are also blame-worthy in the case are Joseph and Hussain Saib son of Shia Saib.

I

(General Serial No. 30.)

I beg to add that, as reported in my letter No. 189 From
24th October 1892, the Engine driver and the Firemen were
placed on their trial before the city Magistrate, who sub-
-mitted the records of the case to the District To
Magistrate as the Engine Driver Dutch Despatched claimed to be dealt
with as a European British born subject.—
Received
Enclosures No.
General No.
No

I have &c.

Signed/ M. Chengiah Chetty.
Asst Supt of Ry Police

"Copy"

M Jeanharvadas
Inspector General
of Police.

(General Serial No. 30.)

15 DEC. 92
189 G 2851

From The 1st Assistant to the Resident in Mysore.

Section P 8 To
File No 15 492
Serial No 6

Dated 15th December 1892

Despatched

Received

Enclosures No.

General No. 4061
No. 399-86

States that the Consulting Engineer for Railways, Bombay, reports that with regard to the fatal accident which took place near the Hengeri Station on the 11th October 1892, no steps have been taken to prosecute the driver of the train in question.

Submitted with reference

15/12/92

No. 4061 / 399 86

(6)

From

THE FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

The Dewan of Mysore.

Dated Bangalore, 15th December 1892.

Sir,

With reference to your Office letter Camp No.1[illegible] dated the 28th October 1892, regarding the fatal accident which took pla near the Kengeri Station on the 11th October 1892, I am directed t state that the Consulting Engineer for Railways, Bombay, reports that no steps have been taken to prosecute the Driver of the trai in question, as there does not appear to be enough evidence to sustain a verdict.

Sanction?

2. The Assistant Superintendent of Railway Police contend that the Driver should not arrive at a station before time, and th having done so in this case committed a breach of rules, but this act, I am to say, does not violate any rule having the force of law on the other hand, the time keeper evidently violated a main rule, which is, that no trolly is allowed on the line without being pre ceded and followed by men with red flags at a distance of [illegible]0 yar had these men been out as they ought to have been, the trolly coul not have been run into. Further, it is the business of a trolly to look out for trains, and if an accident happens the main brunt fal on the trolly man, unless he can show that the rules have been scru pulously attended to. There is no evidence on this point, and unless there is some forthcoming, the Consulting Engineer is of opinion, that the Engine Driver cannot be held to blame, and if there is no

stronger evidence than that in the Police Officer's Report, it would hardly be strong enough to obtain a verdict.

I have the honor to be,

Sir,

Your most obedient servant,

First Assistant Resident.

No 9116. dated 21-12-92
J 503-92

2 Duplicate

To

Section PO
File No 15 Vol
Serial No 7

Inspector Genl of Police
Bangalore

Sir,

With reference to your letter No 1568/168 dated the 6th December 1892 I am directed to ask you to intimate to the Government the result of the proceedings instituted by the Railway Police against Patrick Kelly Engine-driver & others concerned in the Railway accident near Kengeri.

A copy of letter No 4061/399-86 dated the 15 Instant ~~received~~ from the First Assistant to the Resident in Mysore is herewith forwarded for your information with

special reference to the observations contained in para 2

I have &c.

21/12

Chief Secretary

20/12/92.

(9)

Ser 1701
No 15 - 9/12 4117 dt 21-12-92
Serial No 8 J. 5-04-92

The Hon'ble Sir W. Lee
Resident in Mysore
Bangalore

Sir

I have the honor to acknowledge the receipt of your letter No 4061/399-86 dated the 15th Instant stating that for the reasons given, the Consulting Engineer ~~Bombay~~ for Railways, Bombay, took no action to prosecute the drivers concerned in the fatal accident which took place near the Kengeri Station

2 With reference to the above, I am directed to forward for the information of the Resident, copy of

Letter No 1568/168 dated the 6th Inst. from the Inspector General of Police from which it will be seen that before the receipt of your letter, the Railway Police Assist. Superintendent took action in the matter and placed the case before a Magistrate.

2. I am to add that the result of the proceedings before the Magistrate will be intimated to you in due course.

I have &c.

W. [illegible]
Chief Secretary

GHL
20/12

(General Serial No. 30.)

H. H. THE MAHARAJA OF MYSORE

1892/93

OFFICE OF THE RESIDENT IN MYSORE
23 FEB. 93
No. 380
No. 867

From The 1st Asst to the Resident in Mysore

Section 001
File No 16 - Td 92
Serial No 07

Dated 23rd Feby/93

Despatched

Received

Enclosures No.

General No. 615

No. 399.86

Requesting to be favored with the results of the proceedings instituted against an Engine driver and Fireman of the S. M. Railway.

W. Page. Refer today. 23/2

W. Page

Ans The reference quoted is issued from the Jud. Branch.

23/2/93

Jud. Mysore 23/2/93

(10)

No. 615 / 399.86

From

The FIRST ASSISTANT to the RESIDENT in MYSORE.

To

The Dewan of Mysore.

Dated Bangalore,. 23 February 1893.

Sir,

I am directed to invite attention to your communication noted on the margin, and to ask to be favoured with the result of the proceedings instituted.

Subject.

Prosecution of an Engine Driver and Fireman of the Southern Mahratta Railway.

No.9117-J504.92 dated 21st December 1892.

I have the honor to be,

Sir,

Your most obedient servant,

First Assistant Resident.

920 14203 (11)

J 7 291-92

GOVERNMENT OF MYSORE

To

J.759

The ~~District~~ Inspector General of Police,

Section 920 92-A
No 28-92
Serial No 10 Dated

. This office letter No: 9116 J503-92 dated 21st Dec 92 addressed to the Govt Sub-Jail requesting to intimate to the Govt the result of the proceedings instituted by the Railway Police against Patrick Kelly, Engine Driver and others concerned in the Railway accident near Kengeri ——

Has the honor to draw attention to the above & to request an early reply. ~~to the above~~

B.O.

23/2

for Chief Secretary

No 14641 (12)
Dated
J.7.201-92 7/3/93
4.

GOVERNMENT OF INDIA

J. 784. - To

Section P&T
No 18-92
Serial No 4 Dated

The Inspector general of Police in Mysore

With reference to the fatal Railway accident that took place near Kengeri on the 11th of October 1892 ~~near the Kengeri Station~~ ~~has the honor~~ ~~the Inspector of Police is requested to report for information of Government~~ to inquire whether any prosecution was instituted under Section 26 of the Railway Act and Section 304A of the Indian Penal code against the Driver who acted in violation of the Rules, and if so the result should be reported for the info. of Govt.

By Order

[illegible] 1/3
Chief Secretary.

A and in continuation of this office No 14203 J.7.201 of 23d. ultimo

Ack. [illegible] 5
28/2

(General Serial No. 30).

189

From

The Chief Secretary to the Dewan of Mysore.

To

Dated

Despatched

Received

Enclosures No.

General No. _____

No.

OFFICE OF THE
10045
7 MAR. 93
DEWAN'S

1893

From

The Inspector General of Police
in Mysore.

Section P.S. to
No 15 G 12
Serial No 12
Dated 7-3

To

The Chief Secretary to the
Government of Mysore.

Despatched 7 March 1893.

Received

General No. 2576
289

Enclosure. /

URGENT.

SUBJECT.

Stating that the Driver Kelly's case was transferred by the Chief Court to Mr. Ricketts, Justice of the Peace.

~~Report to Govt.~~

J. Nun
7/3

No. 2576/289

Enclosure. 1

OFFICE OF THE INSPECTOR GENERAL OF POLICE IN MYSORE.

Dated Bangalore 7th March 1893.

From

The Inspector General of Police
in Mysore,

To

The Chief Secretary to the
Government of Mysore.

SIR,

In reply to your docket Nos. 14203/J 7201-92 and 14641/J 7.201. of the 23rd February 1892 and 18th March 1893 respectively, calli for information in Driver Kelly's case, I have the hon to state that he was on 31st October 1892 placed before the City Magistra charged with offences under Sections 304 Indian Penal Cod and 26 of the Railway Act.

2 On application made by the accused to the Chief Court that he being a European British subject should be tried by a justice of the Peace, the City Magistrate was ordered not to proceed with the trial and the case has now been transferred to Mr. Ricketts.

The case I understand will come on for trial on the 14th instant. The result will be reported in due course.

I beg to enclose copy of the Railway Assistant Superintendent's letter on the subject.

I have the honor to be
Sir,
Your most obedient Servant.

[illegible]
Inspector General
of Police.

No 174 Enc: 1 (113/a) Bangalore
Dated 6th March 193

From,

The Asst Supt of Ry Police
Bangalore

To,

The Inspector General
of Police
in Mysore

Sir,

In reply to your docket No A dated the 4th current, I beg respectfully to report that the fatal collision of the up Goods train with Line Keeper's trolly occurred on the 11th October 1892 and the enquiry into the cause of the accident was conducted by Messrs Komaraswami Naik and Chengiah Chetty lasted till the 30th idem. The Driver Kelly through whose negligence the collision took place, was placed before the City Magistrate on 31st October 1892. But the accused having made an application to the Chief Court to be tried by a Justice of the Peace on the ground that he was a British born subject, further proceedings in the case were ordered to be stopped, and the records of the case were thereupon submitted to the Chief Court on the 28th January 1893 and the Judges passed an order on the 8th Ultimo, granting the accused's request

finally

finally referring through the District Magistrate of Bangalore on the 27th Ultimo to Mr Ricketts, justice of the Peace.

2. As I was on the point of going to Mr Ricketts office to ascertain what was done by him in the matter, Mr Abdul Kareem, Asst Conservator of Forests called on me this forenoon and said that Mr Ricketts wanted to see me to-morrow about the case. I shall accordingly go to him and report further progress in the course of tomorrow.

3. The above information I have personally obtained from the Chief Court.

4. The docket under reply is herein enclosed.

I have the honor to be
Sir
Your most obedient servant

/Signed/ V.N. Gopaulengar
Asst Supt of Ry Police

"Copy"

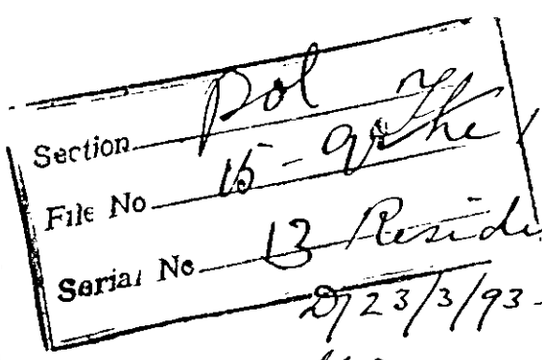
/By/ Ramchandra Rao
Inspector General
of Police

No 15543 (4)

J.F. 201 - 92

To

J. 85-1



The Asstt to the Resident in Mysore

23/3/93.

Sir

In continuation of my letter No: 9117/J504-92 dated 21st December 92, and with reference to your letter No: 615/399-86 dated 23rd February 93, I am directed to forward herewith copy of letter No: 2576/289 dated the 7th Instant, from the Superintendent of Police explaining the progress made in the trial of the case against

against engine driver
Kelly, through whose neg=
=ligence, it was alleged,
that the late collision
at Kengeri took place.

2 I am to add that the
result of the enquiry,
now pending before Mr
Ricketts, will be intimated
to you in due course.

J

I have &c

Chief Secretary

1087
24 MAR 93
1893
MYSORE

15

From

The Inspector General of Police
in Mysore.

To

The Chief Secretary to the
Government of Mysore.

Section Pol
No 15-92
Serial No 44

Dated 24th March 1893.
Despatched
Received

General No. 2812
314
Enclosure.

SUBJECT.

Reporting that Driver P. Kelly concerned in the late fatal accident near Kengeri was tried and acquitted by Mr. L. Ricketts, Justice of the Peace, and that the other 2 accused were discharged.—

J. Mr
25/3/93

Report sent to Forest.

I don't see that the Rds of 1st Asst Rest. Regarding the trial result has been sent. Nor do we now be sent. There has been blundering on our part & the reap all the needless Corr^ce with the Residency. The blundering was due to imperfect wiring of Thompson Avenue by 4-4-93

Mysore Govt. C.Press, Bangalore.—27-8-92—500.

No. 2812/314

OFFICE OF THE INSPECTOR GENERAL OF POLICE IN MYSORE.

Dated Bangalore 24th March 1893.

Enclosure.

From

The Inspector General of Police
in Mysore,

To

The Chief Secretary to the
Government of Mysore.

SIR,

In continuation of this office letter No. 2576/289 dated 7th instant, I have the honor to report that Driver P. Kelly, concerned in the late fatal accident near Kengeri was tried and acquitted by Mr. L Ricketts, Justice of the Peace. The 2 firemen (2nd and 3rd accused) were discharged.—

I have the honor to be
Sir,
Your most obedient Servant.

M Ramachandra Rao

Inspector General
of Police.

No 16380 dated 6th April 1893.

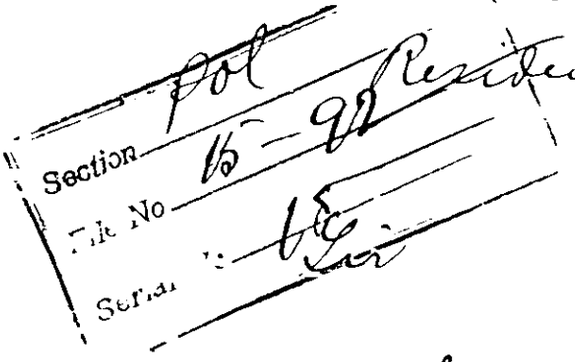
J 201-92

(16)

To

J 911.

The 1st Assistt to the Resident in Mysore



In continuation of my letter No: 15543 dy JF 201-92 dy 23rd March 1893, I am directed to report that Driver P. Kelly concerned in the late fatal accident near Kengeri was tried and acquitted by Mr L. Ricketts, Justice that the of the Peace & 2 Jurymen (2nd & 3rd accused) were discharged.

I have &c

Mysore 3/4/93

for Chief Secretary

31.3.93.

File subd. by Dewan
Date
3/IX

No 16966 8/13 April 92 To

J.7. 201 – 92

17

The Inspector Gl

Section Pol of Police, in Mysore

No 15 – 92

Serial No 16 Dated

With reference to

L. 941

his letter No: 2812/314 dated

the 24th March 1893, re

porting that Driver

P. Kelly concerned in

the late fatal accide

near Kengeri was tri

and acquitted by Mr

L. Ricketts, Justice of the

Peace, and that the

other two firemen were

discharged, has the

honor to request that

the Inspector Gl will obtain

be good enough to forwa

a

a copy of the judgment passed by Mr L. Ricketts in the case.

B. O.

13/4

Chief Secretary

J.

12.4.93

1893

From The Inspector General of Police in Mysore.

To The Chief Secretary to the Government of Mysore.

Section P&L

No 15 — 92

Dated 19th April 1893.

Serial No 47

Despatched

Received

General No. 3067

Enclosure. 340

SUBJECT.

Forwarding copy of Judgment passed by Mr. L. Ricketts, in the Ra fatal accident case (accused Driver and 2 others).

Judl. Br
MM
19/4

Submitted.
MM
22/4.

Mr. Srinivasayya to prepa a note explaining the diff. bet. the fasts urged & admitted & upon wh. the Sessions was based & the established at the trial & observed in the Judl

Mysore Govt. C.Press, Bangalore.—27-3-92—500

25/4

No. 3001/340

OFFICE OF THE INSPECTOR GENERAL OF POLICE IN MYSORE.

Dated Bangalore 19th April 1893

Enclosure. /

From

The Inspector General of Police,
in Mysore,

To

The Chief Secretary to the
Government of Mysore.

SIR,

As requested in your docket No. 16966 / F.7.201 of the 13th instant, I have the honor to forward herewith copy of the Judgment passed by Mr. L. Ricketts, Justice of the Peace, in the Railway fatal accident case (accused Driver Kelly and 2 others).—

I have the honor to be
Sir,
Your most obedient Servant.

M. Narasimhacharlu
Inspector General
of Police.

In the Court of the Justice of the Peace

Bangalore.

Dated 22nd March 1893.

Criminal Case No. 3 of 1892-93.

Present:- C. Ricketts Esqre

Justice of the Peace.

Complainant

Government.

versus 1. Patrick Kelly
2. Hoossein Beg
3. Joseph.
} accused.

Judgment

I. The complaint, which was at the instance of the Railway Police, is in substance, the same as the charge framed against the accused Kelly, (the 2nd and 3rd accused having been discharged under section 253 of the C. P. Co.), viz, that he caused the death of time-Keeper Comaraswamy by a rash and negligent act under section 304 A of the I. P. C. and section 26 of the Indian Railway Act.

II. Seven witnesses were examined for prosecution, and five Exhibits filed, viz A to E. inclusive.

III. The accused, Patrick Kelly, pleaded not guilty, and stated that he was not ¼ of an hour before time and was running to time

IV. Five witnesses were examined for defence, and ten exhibits were filed, viz I to X inclusive.

V. The case for prosecution is that a trolly was on the lines that accused had knowledge of the same on his line-clear ticket and that by running before or over time 15 minutes or so, his (accused's) train came into collision with the trolly which results in the death of one of its occupants, by name Comaraswamy, a time keeper of the S. M. Railway.

VI. To support this allegation of being 15 minutes before proper time

the

the Kingeri station master (2nd witness for prosecution) says Prisoner's train arrived at Kingeri station at 15.33. or at right time, and that as there was some 15 minutes delay at scene of accident, which was about half a mile from Kingeri station it is to be inferred that the train was in fact 15 minutes before time. But the accused, the driver of train No. 143 and his Chief Guard Abdoolah Khan (2nd witness for defence) have entered in their books 15.46 as the time of arrival at Kingeri being 13 minutes late owing to the delay occasioned by the trolly accident.

VII. I have grave suspicions as to the correctness of the Kingeri station master's entry of arrival of 143 train at Kingeri at 15.33. The time of departure of 143 train from Kingeri is given by the station master as 15.52, and by the accused and Chief Guard at 15.50 and which substantially agree with each other. According to the station master of Kingeri, No. 143 train arrived at 15.33 and left at 15.52, thus remaining 19 minutes at Kingeri, instead of 4 minutes as per driver's and guard's entries, who give 15.46 as time of arrival and 15.50 as time of departure. If the station master's entry of 19 minutes delay is to be credited, what was the cause thereof? There is reference in the depositions of one or two prosecution witnesses that the injured time-keeper, Comaraswamy, was removed from the brake-van into a passenger carriage when the train arrived at Kingeri; but this change would not have taken more than a few minutes. In fact, the delay of 19 minutes at Kingeri is not explained by the station-master. And I have further to observe that I believe the defence 2nd witness, the Chief Guard of 143 train that the injured man was not removed from one carriage to another at Kingeri, and that he, the injured man, remained all along in the European Compartment of the brake van where he had been placed after the accident. It may be that the Kingeri station master had to give 15.52 as the time of departure from Kingeri station, because

because the Chief Guard, Abdoolah's telegram from Kingeri reporting the accident, has the time given at 15.50. In a sense, there is one corroboration of Kingeri station-Master's entry of arrival of No. 143 train at 15.33. viz, that he gave clear-line message to Bidadi at 15.36; and this is, in fact, corroborated by the station Master of Bidadi, who says that, in receiving said clear line message, he started No. 147 train at 15.39, and which is corroborated by the entry in his register (See this register marked as exhibits I and No. I and IX). But heretoo there is similar conflict of hour of departure in the driver's and guard's books (viz 2nd and 3d. witness for defence) for said 147 train, whose entries are to the effect that their train left Bidadi at 15.45 being delayed some ten minutes in getting line-clear ticket from Kingeri. It is argued for the prosecution that these entries are not correct and were made to help the case for defence, viz that No. 143 train arrived at Kingeri at 15.46 or 13 minutes late.

VIII. I have carefully examined these entries (Exhibits VII and VII, Exhibit No. VII of the driver of No. 147 gives the time of departure from Bidadi clearly as 15.46 without suspicion of alteration. The guard's similar entry of 15.45 looks a little smudged, but then it is to be noted that this guard gave in his journal of that day's running the same evening. I do not think the guard had time to concoct a false entry; ditto the driver of 147 train, Walker. Besides, at that early stage, why was there reason for such concoction - as the case against the present accused had not then developed itself.

IX. I have entered into these particulars with the hope that a thorough departmental inquiry may be made by experts in order to elucidate all the mysteries and contradictions between the Registers of the two station masters, viz of Bidadi and Kingeri, and of the entries made by the drivers and guards of Trains No. 143 and 147.

X

X. I have now to come to a definite finding as regards the guilt or otherwise of the accused, Kelly, and even to give him the benefit of the doubt, if any; as to whether he was running 15 minutes before time at the time of the trolly accident, which ended fatally to the time-keeper, Comaraswamy.

XI. As regards the trolly, it is said by the Kingeri station master and corroborated by Ivalappah, 5th witness for prosecution, who was seated in the trolly with the deceased, Comaraswamy, that they left Kingeri station at about 15.5. At this time, accepting the theory, that accused's train No. 143 was 13 or 15 minutes before time; said No. 143 train must have been within a mile of Kingeri station; for the collision took place about ½ a mile from Kingeri, and the question arises whether the sound or reverberation of the approaching train as toiling up a steep gradient could not have been heard at that distance, or at least by the trolly people as they went on a little further in the direction of the approaching train. In fact, the driver (accused) of the approaching train should have whistled for the Semaphire before this. The station master denies he heard such whistle, and the pointsman also denies similarly; but their evidence on this point has to be viewed with distrust, and the probabilities are that there was such whistle (as pleaded by the defence) in the usual routine; and the probabilities are, I think, greater that there was such whistle if the train No. 143 was in fact arriving before time. Anyhow, the trolly with its occupants had not proceeded ½ a mile, and part of such distance as being down-hill must have been got over at a fast pace, when the collision took place.

XII. Whether the train No. 143 was 15 minutes before time or running to time there is the same difficulty, viz, the train must have been within a mile of Kingeri when the trolly started.

XIII.

XIII. The Kingeri station Master says that the deceased Comaraswamy, told him when starting in the trolly from Kingeri, that he had 28 minutes before him and that he could take off the trolly on the line. Assuming that the trolly really started 15.5 or 15.6; there were 28 or 27 minutes before such trolly in ordinary course would actually meet the train, but the trolly, as per rules, has to be taken off not less than 15 minutes before, thus the deceased Comaraswamy had in fact only 13 or 12 minutes before him to run his trolly before moving it from the line. I do not know what time it would take to thus remove a trolly from the line, say 2 to 3 minutes, and thus the time before the deceased Comaraswamy is reduced to some 10 minutes. Was it proper or safe for the Kingeri station Master to let the trolly start at all under such circumstances, until the arrival of No 143 train for in the said interval of 10 or even 12 minutes the trolly could not have got down the steep gradient and sharp curve (to be more particularly referred to hereafter) before it would have to be taken off the line. Add to the above the fact, that the trolly should have preceded a distance of ½ a mile by a man bearing a red flag, and the mismanagement as regards this trolly becomes more evident. If such a man with flag had preceded the trolly, the collision, which cost Comaraswamy (a young man apparently of 18 or 20) his life, would never have happened.

XIV. Though foreign, perhaps, to the point at issue, I may mention here that some of the recorded evidence points to the fact that the precautions about preceding and rear men carrying red flags is not generally carried out.

XV. If the evidence had stopped at this point, my verdict, I think, would still have been in favor of the accused - seeing that departmental rules regards running of the trolly had been dis-regarded, and with it a suspicion that there was a sort of conspiracy to

to shift the blame of the accident on the accused as running some 15 minutes before time.

XVI. But the evidence recorded below serves to show that it was exceedingly improbable for the accused to have been running his train some 15 minutes before time when he arrived at the scene of accident. Mr. Molloy, the District Loco Superintendent and 5th witness for defence, says "It is exceedingly improbable that Ch. 143 Up. train would arrive before time under any circumstances" as from Bidadi to Kingeri there is a rise of 110 ft, and over-loading (Ch. 143 train, as per evidence, was overloaded by one vehicle) would further retard progress. Also Ch. 143 train was worked by 26. S.T. Class, Engine being a class of Engine that would render it still more unlikely to arrive before time. Mr. Porter, locomotive foreman and 1st witness for defence, also states that the line from Bidadi to Kingeri is a very heavy line on account of heavy gradients, and that it would not be possible to keep even time with an overload by one vehicle, which was the case with Ch. 143 Train. Mr. Porter says, he never knew of a train arriving in Bangalore station before time, and that he does not know of such arrivals before time prior to present accident, and that, if there was wilful running into station before time, the driver would be punished. Mr. Molloy is also explicit in saying it is a very serious offence to arrive overtime, though a minute or two overtime might be overlooked; but that to arrive ¼ of an hour too early would probably entail dismissal on the offending driver. Mr. Molloy further adds that he has never known an instance of a train arriving ¼ of an hour before time between stations.

XVII. In the face of such evidence and the extreme improbability that a driver would be rash enough to run over time by no less than 15 minutes - to say nothing of the apparent improbability of so doing on so difficult a part of the line, as between Bidadi and

and Kingeri, and that too with an over-load. I hold that the driver (accused), as per all the probabilities of the case, was not running in over time.

XVIII. As regards the accident itself which resulted in the death of Comaraswamy, I do not see that there was any rash or negligent act or omission on the part of accused to bring him under section 26 of the Indian Railway Act. Mr. Molloy says he has visited the scene of the accident, and is of opinion that at such spot a goods train, such as Nº. 143, overloaded by one waggon, would not be running at more than 6 miles an hour, as the resistance of the curve, which has a radius of some 1000 feet, added to the heavy gradient, viz, 1 in 70, would militate against speed at the place of accident. Mr. Molloy further adds that at the spot in question the Engine would sight a trolly at about 100 feet off, and that the driver could have pulled up at a distance of 20 yards; but that as the trolly was going down the gradient, it would probably be going at the rate of 13 miles an hour, and that an experienced, strong, and self-collected man might have stopped the trolly by the brake at a distance of 35 yards; but that under ordinary circumstances the trolly could not have been stopped under a distance of 70 yards. The evidence goes to show that three of the occupants of the trolly jumped off on their seeing the train approaching. The time-keeper, it seems - but the evidence is not convincing on the point - was seen to put his hand to the brake, or apply the brake, but it was then too late. The Engine going up the gradient and curve could be easily stopped, but not so the trolly; and under all the circumstances, the best thing for deceased Comaraswamy to have done would have been to have jumped off the trolly also. That the trolly was going at a rapid pace when the other three men jumped off is apparently the fact: that two of them examined in the case, say, one witness, that he became senseless after he jumped off; and the other as the trolly was going at a great rate faster than a train when he jumped off he was thrown down heavily and stunned.

XIX.

XIX. I do not think the two firemen should have been made the original 2nd and 3rd accused in this case. There is a provision making them jointly responsible with the driver for certain acts, when not attending to their own duties as firemen (or words to this general effect); but how these firemen could be held responsible with the driver in this particular instance I entirely fail to see.

XX. The court finds the accused, Patrick Kelly, not guilty of the offences specified in the charge, and directs that he be acquitted accordingly and released. —

2nd March 1893. } /Signed/ C. Ricketts.
Justice of the Peace.

"Copy."

/Illegible/
Inspector General
of Police.